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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/738,194	12/15/2000	Emmanuel Vyers	NCP3-E42	1141

7590 07/15/2003

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EXAMINER

KRISHNAMURTHY, RAMESH

ART UNIT	PAPER NUMBER
3753	144

DATE MAILED: 07/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Offic Action Summary	Applicati n No.	Applicant(s)
	09/738,194	VYERS ET AL.
	Examiner Ramesh Krishnamurthy	Art Unit 3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 06 May 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 9 - 12, 14 - 17 and 19 - 32 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 9 - 12, 14 - 17, 19, 20, 22 - 32 is/are rejected.

7) Claim(s) 21 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12. 6) Other: _____.

This office action is responsive to amendment filed 05/06/2003.

Claims 9 – 12, 14 – 17 and 19 – 32 are pending.

1. The following suggestions are offered to the applicant to place the claims in better form: In claims 12 and 17, it is suggested that "comprises a motor drive attached to a reduction gear means" be replaced with -- comprises a reduction gear means attached to the motor drive -- to avoid a potential double inclusion of "a motor drive".
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 9 – 12, 14 – 17, 19, 20 and 22 – 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art cited by the applicant on pages 2 – 8 of the specification and in Figs. 1 – 3 in view of WO 97/16777.

The prior art cited by the applicant on pages 2 – 8 of the specification and in Figs. 1 – 3 anticipates the method recited in claims 9 – 12, 14 – 17, 19, 20 and 22 – 32 with the exception of having a valve position feedback signal.

WO 97/16777 discloses a pressure control apparatus (See Abstract and Fig. 1) in which a position sensor (22) is used to provide a feedback signal comprising data representing position of a motor drive (comprising coupling between the motor (40) and the rotary valve (14)) actuating the valve for the purpose of providing an indication of the position of the valve thereby improving the accuracy of the valve control.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated a position sensor in the prior-art arrangement disclosed by the applicant for the purpose of providing an indication of the position of the valve thereby improving the accuracy of the valve control. In the prior-art arrangement disclosed by the applicant only an indirect inference of the valve position was possible via the measured pressure each time the valve was moved to a new position. Having a position sensor connected to the motor drive actuating the valve would provide a direct indication of the valve position thereby improving the overall efficacy of pressure/flow control.

5. Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Regarding claim 23, it is noted that as amended, claim 23 depends from claim 20 (rather than from claim 21) and stands rejected as set forth above.

Response to Arguments

7. Applicant's arguments with respect to claims 9 – 12, 14 – 17 and 19 - 32 have been considered but are moot in view of the new ground(s) of rejection. Similarly, the declaration by David Kruse under 37 CFR 1.132 filed 05/06/2003 has been rendered moot in view of the new ground(s) of rejection set forth above.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wailes et al. discloses a pressure based flow control system having valve position feedback as well. Potter et al. discloses a pressure regulator. Eckardt et al. discloses means for regulating pressure in a chamber.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (703) 305 - 5295. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Rivell, can be reached on (703) 308 - 2599. The fax phone number for the organization where this application or proceeding is assigned is (703) 872 – 9302 and for after-final communications, the fax phone number is (703) 872 9303.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 - 0861.

Ramesh Krishnamurthy
Examiner
Art Unit 3753
July 9, 2003


JOHN RIVELL
PRIMARY EXAMINER
ART UNIT 347